

Exhibit H

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARCHIE COMIC PUBLICATIONS, INC.,

Plaintiff,

-against-

KENNETH W. PENDERS, II,
p/k/a/ KEN PENDERS,

Defendant.

Case No. 10-cv-8858 (RMB)(MHD)

**DEFENDANT AND CROSS-COMPLAINANT KEN PENDERS' INITIAL
DISCLOSURES PURSUANT TO RULE 26(A) OF THE
FEDERAL RULES OF CIVIL PROCEDURE**

Defendant and Cross-Complainant Ken Penders ("Penders"), by and through his undersigned counsel, hereby provides the following initial disclosures, in accordance with Federal Rule of Civil Procedure ("FRCP") 26(a)(1).

PRELIMINARY STATEMENT

Penders' investigation of this action is in progress, and formal discovery remains ongoing. Accordingly, these disclosures are based only upon such information and documents presently available to and specifically known to Penders. It is anticipated that discovery, specifically including documents and answers provided by plaintiff Archie Comic Publications, Inc. ("ACP") and third parties, independent investigation, legal research, and analysis, will supply additional facts, add meaning to known facts, and establish new factual and legal conclusions. All such information may lead to substantial additions to, changes in, and/or variations in these responses.

These disclosures are submitted without waiving in any way, and on the contrary, with express reservation of: (1) the right to amend or supplement any and all information

provided herein pursuant to FRCP 26(e); and (2) the right to object on any grounds whatsoever to the use in evidence or any other use of this information in this or any other proceeding, by these parties or any other parties or non-parties. Moreover, any disclosure by Penders herein or elsewhere of privileged information is, or was, inadvertent and cannot be construed as a waiver of any such privilege.

Finally, all of the disclosures contained herein are made subject to this Preliminary Statement.

DISCLOSURES

A. Individuals With Discoverable Information

In accordance with FRCP 26(a)(1)(A), Penders believes that the following individuals are likely to have discoverable information that may be used to support his claims:

	Witness	Subject(s) of Testimony
1.	Daryl Edelman (address presently unknown) 212-742-1972	Standard practices of ACP when dealing with freelancers
2.	Paul Castiglia (address presently unknown) (phone number presently unknown)	Standard practices of ACP when dealing with freelancers
3.	Scott Fulop #1 Top of the Ridge Mamaroneck, NY 10543 914-584-4357	Standard practices of ACP when dealing with freelancers
4.	Justin Gabrie 107 Fern Court Easton, PA 18045 610-730-4193	Standard practices of ACP when dealing with freelancers
5.	Mike Pellerito (address presently unknown) (phone number presently unknown)	Standard practices of ACP when dealing with freelancers
6.	Victor Gorelick (address presently unknown) (phone number presently unknown)	Standard practices of ACP when dealing with freelancers
7.	Ed Spallone (address presently unknown) (phone number presently unknown)	The contracts ACP alleges were executed by Spallone and Penders
8.	Patrick Spaziente	Standard practices of ACP

	3234 Lucerne Street Bronx, NY 10465 718-828-8196	when dealing with freelancers; professional experience dealing with ACP while working on the SONIC series
9.	Fred Mauser (address presently unknown) (phone number presently unknown)	Standard practices of ACP when dealing with freelancers
10.	Karl Bollers (address presently unknown) 917-653-3932	Professional experience dealing with ACP while working on the SONIC series
11.	Manny Galan (address presently unknown) 917-399-4454	Professional experience dealing with ACP while working on the SONIC series
12.	Sam Maxwell (address presently unknown) (phone number presently unknown)	Professional experience dealing with ACP while working on the SONIC series
13.	Michael Higgins (address presently unknown) (phone number presently unknown)	Professional experience dealing with ACP while working on the SONIC series
14.	Nelson Ribiero (address presently unknown) (phone number presently unknown)	Professional experience dealing with ACP while working on the SONIC series
15.	Frank Gagliardo (address presently unknown) (phone number presently unknown)	Professional experience dealing with ACP while working on the SONIC series
16.	Mike Kanterovich 59 Jewett Lane Hollis, NH 03049 603-546-8096	Professional experience dealing with ACP while working on the SONIC series
17.	Bernadette Shahin 12147 Woodley Avenue Granada Hills, CA 91344 323-632-9483	Relationships with Sega; copyright status
18.	Larry Houston (exact address presently unknown) Moorpark, CA 818-426-7430	Relationships with Sega
19.	Elliot S. Maggin (address presently unknown) 818-429-4236	Professional experience dealing with ACP, Sega

20.	Scott Shaw (address presently unknown) 818-642-1967	Professional experience dealing with ACP while working on the SONIC series
21.	Jim Valentino (address presently unknown) 503-705-4384	Professional experience dealing with ACP while working on the SONIC series

B. Documents

In accordance with FRCP 26(1)(1)(B), Penders provides the following description by category of documents in his possession, custody and control which Penders believes may support his claims in this matter. Penders further notes that his investigation is continuing, and in the event additional documents are found, such documents will be disclosed through a supplemental disclosure pursuant to FRCP 26(e).

1. Copyright registrations;
2. Non-privileged electronic mail ("email") communications between Penders and representatives from Sega; between Penders and various former SONIC editors and freelancers; between Penders and individuals involved in securing a license from SEGA
3. Original art returned by Archie (none of which bears any Archie copyright stamps
4. Fax communications between Penders and Archie SONIC Editors
5. Photographs
6. Documents sent from SEGA to Penders
7. Artifacts provided by SEGA to Penders
8. Artifacts produced by Penders with SEGA approval
9. Copies of vouchers submitted to Archie for payment
10. Paystubs from checks paid to Penders from various comic book publishers
11. Contracts from various comic book publishers
12. Hardcopy communications between Penders and various comic book editors
13. Penders tax documentation
14. Penders freelancer expense receipts

15. Freelancer work produced by Penders

16. Self-generated work produced by Penders

C. Computation of Damages

Pursuant to 17 U.S.C. § 501 *et seq.*, Penders may elect to seek actual damages in an amount to be proven at trial, and/or statutory on those claims for which statutory damages are available. In addition, Penders seeks its reasonable attorneys' fees and the full costs of this litigation (which cannot be ascertained at this stage of the proceedings). Penders will make available for inspection and copying (pursuant to the FRCP), all documents or other evidentiary matter, not privileged or protected from disclosure, upon which Penders' damage computations are based.

D. Insurance Agreements

Not applicable.

Dated: July 20, 2011

LOVITZ IP LAW, P.C.

Beverly Hills, California

By /s/
R. Christopher Harshman (*pro hac vice*)
9701 Wilshire Blvd. Ste 1000
Beverly Hills, CA 90212
Tel: (310) 860-6136
Fax: (310) 861-6566

*Attorneys for Defendant Kenneth W.
Penders, II*